



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

**SEP 18 2013**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Terry Laird, Director of Operations  
NLMK Indiana  
6500 South Boundary Road  
Portage, Indiana 46368

Dear Mr. Laird:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket no. CAA-05-2013-0041. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 18 2013.

Pursuant to Paragraph 28 of the CAFO, NLMK must pay the civil penalty within 30 days of SEP 18 2013. Your check must display the docket number CAA-05-2013-0041.

Please direct any questions regarding this case to Susan Tennenbaum, Associate Regional Counsel, (312) 886-0273.

Sincerely,

Eileen L. Furey  
Acting Chief  
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Susan Tennenbaum/C-14J  
Phil Perry, Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

In the Matter of:	)	Docket No. CAA-05-2013-0041
	)	
NLMK Indiana	)	Proceeding to Assess a Civil Penalty
Portage, Indiana,	)	Under Section 113(d) of the Clean Air Act,
	)	42 U.S.C. § 7413(d)
Respondent.	)	

RECEIVED  
REGIONAL OFFICE  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
JAN 10 2013

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is NLMK Indiana (NLMK), a corporation doing business in Indiana.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. Section 502(d)(1) of the CAA, 42 U.S.C. § 7661a(d)(1), requires each state to develop and submit to EPA an operating permit program which meets the requirements of Title V.

10. On December 4, 2001, EPA granted Indiana final approval of its Title V Clean Air Act Permit Program, effective June 17, 2002.

11. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

12. The Indiana Department of Environmental Management (IDEM) issued to NLMK on October 9, 2009 a Part 70 Operating Permit Renewal (Title V Permit) No. T 127-27948 for its Portage, Indiana facility. IDEM approved an administrative amendment to the Title V Permit on September 21, 2011.

13. Part D.1.8(a) of the Title V Permit limits throughput at the Melt Shop to 151 tons per hour, over a period of 24 operating hours rolling average, with compliance demonstrated at the end of each hour. Part D.1.16 of the Title V Permit requires that NLMK record and maintain records of the Melt Shop throughput for a period of five years.

14. Parts D.1.9 and D.2.5 of the Title V Permit require Preventive Maintenance Plans for, among other things, the Melt Shop baghouse, the Hot Strip Mill reheat furnace, and the Selective Catalytic Reduction unit (SCR).

15. Part D.1.14 of the Title V Permit requires that NLMK, among other things, calibrate or replace the instrument used for determining the pressure differential at the Melt Shop baghouse at least once every six months.

16. Part D.2.2(c) of the Title V Permit establishes a limit for the NO<sub>x</sub> emissions from the Hot Strip Mill reheat furnace of 18.88 pounds per hour on a three operating hour average basis except during periods of startup and shutdown.

17. Section 113(d)(1) of the CAA limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

18. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Factual Allegations and Alleged Violations**

19. At all times relevant to this CAFO, NLMK was the owner and/or operator of a steel mill located at 6500 South Boundary Road, Portage, Indiana.

20. On nine days between August 30, 2010 and March 30, 2012, NLMK did not demonstrate compliance with the short term production limit from the Melt Shop, in violation of Part D.1.8(a) of the Title V permit.

21. During a June 12, 2012, inspection of the facility, NLMK did not produce Preventative Maintenance Plans for the Melt Shop baghouse, for the Hot Strip Mill reheat furnace, or for the SCR, in violation of Parts D.1.9 and D.2.5 of the Title V Permit.

22. NLMK did not calibrate or replace the instrument used for determining the pressure differential across the Melt Shop baghouse within the last five years, in violation of Part D.1.14 of the Title V Permit.

23. On five days between April 27, 2012, and May 30, 2012, NLMK exceeded the emissions limit established for NO<sub>x</sub> at the Hot Strip Mill reheat furnace during normal operations. The exceedences totaled 15 hours of operating time for the quarter. These exceedences were in violation of Part D.2.2(c) of the Title V Permit.

24. On December 20, 2012, EPA issued to NLMK a Finding of Violation alleging that it violated provisions of the Title V Permit, as outlined in Paragraphs 20 through 23 of this Order.

25. On January 30, 2013, representatives of NLMK and EPA discussed the December 20, 2012, Finding of Violation.

26. On June 21, 2013, NLMK and EPA entered into an Administrative Consent Order, according to which milestones were set to bring NLMK into compliance with its Title V Permit within a year.

#### **Civil Penalty**

27. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and NLMK's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$148,712.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$148,712 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Or, for checks sent by express mail (non-U.S. Postal Service which will not deliver mail to P.O. Boxes), Respondent must send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

29. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Susan Tennenbaum (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

30. This civil penalty is not deductible for federal tax purposes.

31. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

32. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which assessed penalty is overdue according to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **General Provisions**

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

34. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

35. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in Paragraph 33, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

36. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

37. The terms of this CAFO bind Respondent, its successors and assigns.

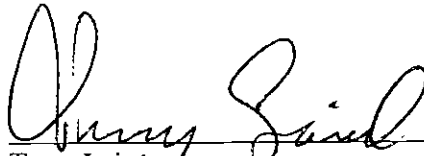
38. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

39. Each party agrees to bear its own costs and attorneys' fees in this action.

40. This CAFO constitutes the entire agreement between the parties.

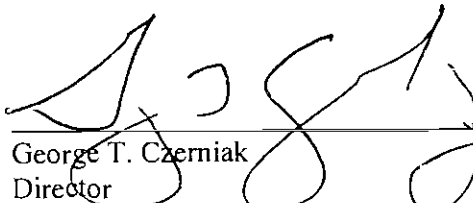
**NLMK Indiana, Respondent**

8/8/13  
Date

  
Terry Laird  
Director of Operations  
NLMK Indiana

**United States Environmental Protection Agency, Complainant**

9/9/13  
Date

  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

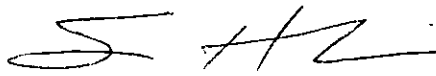


**Consent Agreement and Final Order**  
**In the Matter of: NLMK Indiana**  
**Docket No. CAA-05-2013-0041**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-16-2013  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

Consent Agreement and Final Order  
In the Matter of: NLMK, Indiana  
Docket No. CAA-05-2013-0041

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number **CAA-05-2013-0041** with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Terry Laird, Director of Operations  
NLMK, Indiana  
6500 South Boundary Road  
Portage, IN 46368

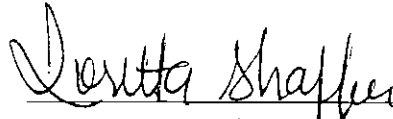
I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ms. Ann Coyle  
Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

I also certify that I mailed a copy of the CAFO by first-class mail to:

Mr. Phil Perry, Chief  
Air Compliance and Enforcement Branch  
Indiana Department of Environmental Management  
100 N. Senate Ave. (Mail Code 61-53 IGCN 1003)  
Indianapolis, IN 46204-2251

On the 18 day of September 2013.

  
\_\_\_\_\_

AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7669 5688